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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

DAN VILLASENOR,

Plaintiff,

v.

SEARS, ROEBUCK & CO.; A&E  
FACTORY SERVICES, LLC; and  
DOE CORPORATIONS 1-5,

Defendant.

Case No. CV 09-9147 PSG (FFMx)

~~[PROPOSED]~~ MODIFIED  
JUDGMENT

Complaint Filed: November 5, 2009  
Judgment Entered: January 19, 2011

**JUDGMENT**

On January 10, 2011, in Courtroom 880 of the above-entitled Court, the Motion of Defendant Sears, Roebuck and Co. ("Sears") for Partial Summary Judgment and the Motion of Defendant A&E Factory Service, LLC ("A&E") for Summary Judgment came on regularly for hearing in the above-captioned matter.

The Court, having determined pursuant to Rule 56 of the Federal Rules of Civil Procedure that there is no genuine issue as to any material fact and that Defendants are entitled to judgment as a matter of law as requested, and having granted Sears' Motion for Partial Summary Judgment and A&E's Motion for Summary Judgment,

HEREBY ORDERS, ADJUDGES AND DECREES that judgment be entered as follows:

(1) In favor of Defendant Sears:

(a) as to Plaintiff's first, second, and third claims for relief in their entirety;

(b) as to Plaintiff's fourth and fifth claims for relief to the extent they are based on any alleged conduct that occurred prior to July 24, 2006; and

(c) as to Plaintiff's fifth claim for relief to the extent it is based on any alleged discriminatory or retaliatory conduct.

(2) In favor of Defendant A&E as to all claims.

Plaintiff's fourth claim for failure to provide meal and rest breaks in violation of the California Labor Code, to the extent it is based on any alleged conduct that occurred after July 24, 2006, and Plaintiff's fifth claim for alleged unfair business practices, to the extent it is based on the alleged failure to provide meal and rest breaks after July 24, 2006, are not included in this Judgment. Plaintiff has accepted a Partial Rule 68 Statutory Offer as to these two claims and the Court shall withhold dismissing same until either Plaintiff submits a Request for Dismissal pursuant to agreed upon settlement terms or the Court issues a ruling, if one becomes necessary, on a noticed motion for attorneys fees in connection with the Partial Rule 68 Statutory

1 Offer. Plaintiff's counsel shall file any such motion for attorney's fees on or before  
2 February 22, 2011.

3  
4 **IT IS SO ORDERED.**

5 Dated: 02/04/11

6 **PHILIP S. GUTIERREZ**  
7 **HON. PHILIP S. GUTIERREZ**  
8 United States District Judge

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